

AO 106 (Rev. 04/10) Application for Search Warrant

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OCT 23 2017

UNITED STATES DISTRICT COURT

for the

Western District of Washington

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

Information associated with Facebook Account
100009425283890, with user name Al Andre, that is
stored at premises controlled by Facebook, Inc.

Case No.

MJ17-440

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, attached hereto and incorporated by reference.

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, attached hereto and incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 U.S.C. § 2250

Offense Description
Failure to Register as a Sex Offender

The application is based on these facts:

See Affidavit of Senior Inspector Brian Allan, attached hereto and incorporated herein by reference.

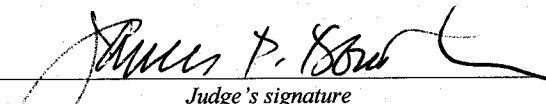
- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Brian Allan, Senior Inspector
Printed name and title

Sworn to before me and signed in my presence.

Date: 23 Oct 2017City and state: Seattle, Washington


Judge's signature

James P. Donohue, United States Magistrate Judge
Printed name and title

AFFIDAVIT

STATE OF WASHINGTON)
)
) SS
COUNTY OF KING)

I, Brian Allan, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for certain information associated with Facebook account 100009425283890, with the user name Al Andre, stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California ("Andre's Facebook Account"). The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government copies of the information (including the content of communications) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B. I also make this affidavit in support of an application for a pen register and trap and trace device for Andre's Facebook Account.

2. I am a Senior Inspector and have been employed by the United States Marshals Service (USMS) for sixteen years. In 2007, I was assigned to the USMS-sponsored Pacific Northwest Violent Offender Task Force (PNVOTF). My training has included attending the Criminal Investigators Training Program at the Federal Law Enforcement Training Center, as well as Basic Deputy United States Marshal Training in Glynco, Georgia. I have also completed High Risk Fugitive Apprehension (HRFA) training in Los Angeles, California. I have been the case agent for numerous fugitive and criminal cases. I have used various methods to conduct in-depth investigations to locate

1 fugitives and collect evidence in criminal cases. I have received training and experience
2 involving criminal investigations and electronic surveillance.

3 3. The facts in this affidavit come from my personal observations, my training
4 and experience, and information obtained from other agents and witnesses. This affidavit
5 is intended to set forth the facts relevant to the determination of probable cause for the
6 requested warrant, and does not set forth all of my knowledge about this matter.

7 4. Based on my training and experience and the facts set forth in this affidavit,
8 I believe there is probable cause to search the information described in Attachment A for
9 evidence of that Alan Scott Andre committed the crime of Failure to Register as a Sex
10 Offender, in violation of Title 18, United States Code, Section 2250. Section 2250
11 provides, among other things, that “[w]hoever is required to register under the Sex
12 Offender Registration and Notification Act,” “travels in interstate or foreign commerce,”
13 and “knowingly fails to register or update a registration as required by the Sex Offender
14 Registration and Notification Act” is subject to a fine and imprisonment.

15 **THE INVESTIGATION**

16 5. On September 20, 2002, Alan Scott Andre was convicted of three counts of
17 Child Molestation First Degree, in violation of Revised Code of Washington 9A.44.083,
18 King County Superior Court Case #01-1-04287-1. Alan Scott Andre was sentenced to
19 serve a total of 130 months’ imprisonment, followed by 36 to 48 months community
20 custody and was required to register as a sex offender with the sheriff of the county of his
21 residence, and school, place of employment, or vocation.

22 6. Alan Scott Andre last registered as a sex offender with the King County
23 Sheriff’s Office on July 7, 2014. On April 13, 2017, the King County Sheriff’s Office
24 received a phone call from an individual who identified himself as “Chris”. Chris stated
25 that he is a Level 1 registered sex offender and served prison time with Alan Scott Andre.
26 He informed the King County Sheriff’s Office that Alan Scott Andre was in Thailand
27 teaching English. On August 9, 2017, I requested travel information on Alan Scott
28 Andre’s passport from the National Sex Offender Targeting Center. The travel on his

1 passport revealed that on July 4, 2015, Alan Scott Andre left Seattle Washington on
2 Hainan Airlines, Flight 496 to Peking, China. Alan Scott Andre did not inform the King
3 County Sheriff's Office of the move or travel.

4 7. On October 7, 2016, Alan Scott Andre returned from Bangkok, Thailand to
5 Los Angeles, California, with a final destination of Seattle, Washington, on American
6 Airlines, Flight 170. Alan Scott Andre did not inform the King County Sheriff's Office
7 that he had returned.

8 8. On October 6, 2017, Deputy U.S. Marshal Strock and I conducted an
9 interview with Timothy Brown,¹ a friend of Alan Scott Andre. Brown reported that he
10 has regular contact with Alan Scott Andre via Facebook. Alan Scott Andre has a
11 Facebook account in the name "Al Andre" with the user ID number 100009425283890. I
12 have reviewed the profile picture and other pictures on this account, and believe that they
13 match Alan Scott Andre's Washington State driver's license photo. Timothy Brown
14 informed Deputy U.S. Marshal Strock and me that he last communicated with Alan Scott
15 Andre on the Facebook account on October 5, 2017.

16 9. I believe that obtaining evidence from Facebook regarding this account, via
17 the use of a pen register and trap and trace device and search warrant, will provide
18 evidence of the that Alan Scott Andre has committed the crime of Failure to Register as a
19 Sex Offender. Specifically, there is probable cause to believe that Andre's Facebook
20 Account could contain evidence demonstrating Alan Scott Andre's travel overseas and
21 current location in the United States. For example, photographs contained in the account
22 may reveal locations where Alan Scott Andre is visiting or residing. Facebook "check
23 ins" may also reveal particular locations where Alan Scott Andre is present. Private
24 messages and comments may also provide further evidence of the crime of Failure to
25 Register as a Sex Offender.

26
27
28 ¹ Timothy Brown was convicted of Possession of Depictions of Minors Engaged in Sexually Explicit Conduct in
2004 and 2008, and Indecent Liberties in 1988. Timothy Brown served prison time with Alan Scott Andre at Twin
Rivers Correctional Facility from 2009 to 2011.

FACEBOOK SOCIAL NETWORKING SERVICES

10. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and, sometimes, with the general public.

11. Facebook asks users to provide basic contact and personal identifying information, either during the registration process or thereafter. This information includes the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

12. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

13. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also

1 include other account settings that users can adjust to control, for example, the types of
2 notifications they receive from Facebook.

3 14. Facebook users can create profiles that include photographs, lists of
4 personal interests, and other information. Facebook users can post "status" updates about
5 their whereabouts and actions, as well as links to videos, photographs, articles, and other
6 items available elsewhere on the Internet. Facebook users can also post information
7 about upcoming "events," such as social occasions, by listing the events' time, location,
8 host, and guest list. In addition, Facebook users can "check in" to particular locations or
9 add their geographic locations to their Facebook posts, thereby revealing their geographic
10 locations at particular dates and times. A user's profile page also includes a "Wall,"
11 which is a space where the user and his or her "Friends" can post messages, attachments,
12 and links that typically are visible to anyone who can view the user's profile.

13 15. Facebook allows users to upload photos and videos. It also provides users
14 the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is
15 tagged in a photo or video, he or she receives a notification of the tag and a link to see the
16 photo or video. For Facebook's purposes, the photos and videos associated with a user's
17 account will include all photos and videos uploaded by that user that have not been
18 deleted, as well as all photos and videos uploaded by any user that have that user tagged
19 in them.

20 16. Facebook users can exchange private messages on Facebook with other
21 users. These messages, which are similar to e-mail messages, are sent to the recipient's
22 Facebook "Inbox," which also stores copies of messages sent by the recipient, as well as
23 other information. Facebook users can also post comments on the Facebook profiles of
24 other users or on their own profiles; such comments are typically associated with a
25 specific posting or item on the profile. In addition, Facebook has a Chat feature that
26 allows users to send and receive instant messages through Facebook. These chat
27 communications are stored in the chat history for the account. Facebook also has a Video
28

1 Calling feature, and, although Facebook does not record the calls themselves, it does keep
2 records of the date of each call.

3 17. If a Facebook user does not want to interact with another user on Facebook,
4 the first user can “block” the second user from seeing his or her account.

5 18. Facebook has a “like” feature that allows users to give positive feedback or
6 connect to particular pages. Facebook users can “like” Facebook posts or updates, as
7 well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook
8 users can also become “fans” of particular Facebook pages.

9 19. Facebook has a search function that enables its users to search Facebook for
10 keywords, usernames, or pages, among other things.

11 20. Each Facebook account has an activity log, which is a list of the user’s
12 posts and other Facebook activities from the inception of the account to the present. The
13 activity log includes stories and photos that the user has been tagged in, as well as
14 connections made through the account, such as “liking” a Facebook page or adding
15 someone as a friend. The activity log is visible to the user but cannot be viewed by
16 people who visit the user’s Facebook page.

17 21. Facebook Notes is a blogging feature available to Facebook users, and it
18 enables users to write and post notes or personal web logs (“blogs”), or to import their
19 blogs from other services, such as Xanga, LiveJournal, and Blogger.

20 22. The Facebook Gifts feature allows users to send virtual “gifts” to their
21 friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase,
22 and a personalized message can be attached to each gift. Facebook users can also send
23 each other “pokes,” which are free and simply result in a notification to the recipient that
24 he or she has been “poked” by the sender.

25 23. Facebook also has a Marketplace feature, which allows users to post free
26 classified ads. Users can post items for sale, housing, jobs, and other items on the
27 Marketplace.
28

1 24. In addition to the applications described above, Facebook also provides its
2 users with access to thousands of other applications on the Facebook platform. When a
3 Facebook user accesses or uses one of these applications, an update about that the user's
4 access or use of that application may appear on the user's profile page.

5 25. Some Facebook pages are affiliated with groups of users, rather than one
6 individual user. Membership in the group is monitored and regulated by the
7 administrator or head of the group, who can invite new members and reject or accept
8 requests by users to enter. Facebook can identify all users who are currently registered to
9 a particular group and can identify the administrator and/or creator of the group.
10 Facebook uses the term "Group Contact Info" to describe the contact information for the
11 group's creator and/or administrator, as well as a PDF of the current status of the group
12 profile page.

13 26. Facebook uses the term "Neoprint" to describe an expanded view of a given
14 user profile. The "Neoprint" for a given user can include the following information from
15 the user's profile: profile contact information; News Feed information; status updates;
16 links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists,
17 including the friends' Facebook user identification numbers; groups and networks of
18 which the user is a member, including the groups' Facebook group identification
19 numbers; future and past event postings; rejected "Friend" requests; comments; gifts;
20 pokes; tags; and information about the user's access and use of Facebook applications.

21 27. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP
22 address. These logs may contain information about the actions taken by the user ID or IP
23 address on Facebook, including information about the type of action, the date and time of
24 the action, and the user ID and IP address associated with the action. For example, if a
25 user views a Facebook profile, that user's IP log would reflect the fact that the user
26 viewed the profile, and would show when and from what IP address the user did so.

27 28. Social networking providers like Facebook typically retain additional
28 information about their users' accounts, such as information about the length of service

1 (including start date), the types of service utilized, and the means and source of any
2 payments associated with the service (including any credit card or bank account number).
3 In some cases, Facebook users may communicate directly with Facebook about issues
4 relating to their accounts, such as technical problems, billing inquiries, or complaints
5 from other users. Social networking providers like Facebook typically retain records
6 about such communications, including records of contacts between the user and the
7 provider's support services, as well as records of any actions taken by the provider or
8 user as a result of the communications.

9 29. Therefore, the computers of Facebook are likely to contain all the material
10 described above, including stored electronic communications and information concerning
11 subscribers and their use of Facebook, such as account access information, transaction
12 information, and other account information.

13 **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

14 30. I anticipate executing this warrant under the Electronic Communications
15 Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by
16 using the warrant to require Facebook to disclose to the government copies of the records
17 and other information (including the content of communications) particularly described in
18 Section I of Attachment B. Upon receipt of the information described in Section I of
19 Attachment B, government-authorized persons will review that information to locate the
20 items described in Section II of Attachment B.

21 **REQUEST FOR NONDISCLOSURE AND SEALING**

22 31. I request, pursuant to the preclusion-of-notice provisions of Title 18, United
23 States Code, Section 2705(b), that Facebook be ordered not to notify any person
24 (including the subscriber or customer to which the materials relate) of the existence of
25 this warrant for such period as the Court deems appropriate. The government submits
26 that such an order is justified because notification of the existence of this Order would
27 seriously jeopardize the ongoing investigation. Such a disclosure would give the
28

1 subscriber an opportunity to destroy change patterns of behavior and to continue his
2 flight from prosecution

3 32. I further request that the Court order that all papers in support of this
4 application, including the affidavit and search warrant, be sealed until further order of the
5 Court. These documents discuss an ongoing investigation that is neither public nor
6 known to the target of the investigation. Accordingly, there is good cause to seal these
7 documents because their premature disclosure may seriously jeopardize the investigation.

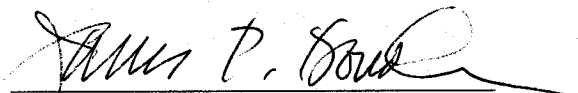
8 CONCLUSION

9 33. Based on the forgoing, I request that the Court issue the proposed search
10 warrant. This Court has jurisdiction to issue the requested warrant because it is "a court
11 of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a),
12 (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a district court of the United States . . .
13 that – has jurisdiction over the offense being investigated." 18 U.S.C. § 2711(3)(A)(i).
14 Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not
15 required for the service or execution of this warrant. Accordingly, by this Affidavit, I
16 seek authority for the government to search all of the items specified in Section I,
17 Attachment B (attached hereto and incorporated by reference herein) to the Warrant, and
18 specifically to seize all of the data, documents and records that are identified in Section II
19 to that same Attachment.

20
21 

22 BRIAN ALLAN
23 Senior Inspector
United States Marshals Service

24 Subscribed and sworn to before me on October 23, 2017.

25
26
27 

28 JAMES P. DONOHUE
United States Magistrate Judge